

mortgagee has been long in possession claiming adversely, and suffered to treat the estate as his own, and the mortgagor stands by and permits lasting improvements to be made, he shall pay for them. (q)

But the estimate of the value of such lasting improvements is to be taken as they are at the time of accounting or passing the final decree. For, such allowances are made upon the ground, that the improvements do, in fact, pass into the hands of the plaintiff as a new acquisition. And they can only be a new acquisition to him to the extent of their value at the time he recovers or obtains possession of them; and therefore their value at that time is to be allowed, and nothing more. (r) It is also necessary to observe, that in charging rents and profits, the estimate must not include any profits which arise exclusively from such improvements; for, if they were to be embraced by the estimate, the occupier would, in fact, be paying for the profits of that which was his own. Therefore the estimate of rents and profits must be made in exclusion of such as appears to have arisen from the occupying claimant's own expenditure in improvements. (s)

The late *John Hook* disposed of the lot on Alice-Anna street, and his representatives *Hagthrop* and wife, having disposed of the other property in a manner in which they had no right to do, and the bill standing unanswered and for true as to the negroes and moveable property; *Hagthrop* and wife must be charged with the value of the whole of that property and interest thereon from the date of the deed from the late *Anthony Hook* to the late *John Hook*; and the account for the rents and profits of the chattels real, will commence from the same date. *Hagthrop* and wife must be charged with the rents and profits of all the chattels real, mentioned in the bill, up to the time when they, or any part of either passed into the hands of any of the present defendants. But *Hagthrop* and wife will be held liable for the whole charged against the other defendants, or to the amount which all, or any of them may fail, or be unable to pay to the plaintiff. And these defendants must be credited with the aggregate of the debt which was due from *Anthony Hook* to *John Moale*, at the time of the

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(q) *Davis v. Simpson*, 5 H. & J. 147; *Hepburn v. Sewell*, 5 H. & J. 211; *Howell v. Baker*, 4 John. C. C. 122; *Rawlings v. Stewart*, 1 Bland, 22, n.; *Strike's case*, 1 Bland, 57; *Rawlings v. Carroll*, 1 Bland, 76, n.; *Swan v. Swan*, 3 Exch. Rep. 443.—(r) *The Kierlighett*, 3 Rob. Ad. Rep. 101.—(s) *Moore v. Cable*, 1 John. C. C. 385.